

For preliminary hearing purposes and by the narrowest of margins, claimant has established that he provided respondent with timely written claim for compensation as required by K.S.A. 44-520a. Claimant testified that within 200 days of the July 5, 1995, accident he submitted medical bills to the respondent related to that accident and at that time told respondent he was claiming workers compensation benefits. On cross-examination, claimant testified as follows:

“Q.(Mr. Burnett) I understand that. When you handed the prescription to Mr. Nusbaum, what exactly did you tell him at that time? Did you tell him I want to get reimbursed for this prescription or did you say I want to make claim for compensation, I want workers’ compensation benefits?

“MR. STEWART: Your Honor, I’m going to object as argumentative. My client has already testified that when he handed that in he was making a claim for compensation for his injuries.

“THE COURT: Well, I’ll let you explore it a little bit, but not too far.

“MR. BURNETT: I won’t.

“Q. You can answer. Do you understand the question?

“A. Will you restate the question again?

“MR. BURNETT: Would you read it back? (REPORTER’S NOTE: The pending question was read back by the Court Reporter.)

“A. I want workers’ compensation benefits.

“Q. That’s your exact words.

“A. That’s my exact words.”

At this time, claimant’s above testimony is uncontroverted.

Written claim for compensation must not take any particular form. In determining what the parties had in mind, the fact finder must consider the various writings as well as all the surrounding facts and circumstances. Lawrence v. Cobler, 22 Kan. App. 2d 291, 915 P.2d 157 (1996).

Based upon the present record, the Appeals Board finds that claimant’s uncontroverted testimony establishes that written claim was made when claimant presented the medical bills to respondent in July 1995 and unequivocally announced that he was requesting workers compensation benefits.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated October 8, 1996, entered by Administrative Law Judge Jon L. Frobish should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

c: Bruce L. Stewart, Wichita, KS
Vincent A. Burnett, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director